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SENATE

REPORT
101-501

REIMBURSEMENT FOR BRUCELLOSIS TESTING

OCTOBER 5 (legislative day, OCTOBER 2), 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1767]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1767) to reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes, having considered the same, reports favorably thereon with amendments and the amendment to the title and recommends that the bill, as amended, do pass.

1. On page 1, line 7, strike "Montana private lands" and insert in lieu thereof "private lands in Montana, Wyoming and Idaho".

2. On page 2, line 1, strike "defacto" and insert "de facto".

3. On page 2, lines 17 through 19, strike "Montana is a brucellosis-free state with a cattle industry that represents millions of dollars to the economy;" and insert in lieu thereof "Montana, Wyoming, Idaho and North Dakota (except for areas within Yellowstone National Park) are brucellosis-free States with cattle industries that represent millions of dollars to their economies;".

4. On page 2, line 20, strike "Montana" and insert "Montana, Wyoming, Idaho and North Dakota".

5. On page 3, line 2, insert "the" between "of" and "Interior".

6. On page 3, lines 3 and 4, strike "Montana, the individual cattle-owners in Montana, or both" and insert "the cattle owners of Montana, Wyoming, Idaho and North Dakota and the governments of those States".

49-010

S313-61.

7. On page 3, line 10, insert "the" between "of" and "Interior".
8. Amend the title so as to read:

A BILL To reimburse cattle owners in Montana, Wyoming, Idaho and North Dakota and the governments of those States for expenses incurred to test cattle for brucellosis organisms carried outside certain units of the National Park System by elk and bison, and for other purposes.

PURPOSE OF THE MEASURE

The purpose of S. 1767, as ordered reported, is to reimburse the states of Montana, Idaho, Wyoming and North Dakota, and individual ranchers in those states for expenses incurred in testing cattle for brucellosis organisms if there is a demonstrated risk of cattle becoming infected with the organism by exposure to national park herds.

BACKGROUND AND NEED

Bovine brucellosis, a disease which causes abortion in cattle, exists in 120 countries around the world and has been reported in all fifty states. Various strains of it are found in domestic and wild animals, but the organism is more commonly found in bison and elk.

Brucellosis is spread by contact with infected individuals. The organism is most common in the womb of an infected female. Since an aborted fetus may carry an abundance of the bacteria, the primary concern regarding transmittal is that an infected animal will abort a fetus that will then come in contact with another animal.

At issue is the potential transmission of brucellosis from national park animals to domestic livestock. Management of the bison in the area of Yellowstone National Park became a particular source of national attention and controversy in 1985, when the Montana Department of Fish, Wildlife and Parks began allowing special hunts of the bison wandering out of Yellowstone National Park to protect Montana livestock from brucellosis.

A large percentage of those bison killed coming out of Yellowstone Park has been found to be infected with the disease. The large infection rate in bison prompted the state of Montana to launch a wide-scale, costly testing program to determine if any cattle herds in the state were infected. While no cases of brucellosis in cattle have been reported in Montana, and few in other western states, the risk of infection is of great concern to local ranchers.

In response to the risk of expanded infection and the high cost of testing for brucellosis, S. 1767 directs the Secretary of the Interior to compensate ranchers in Montana, Idaho, Wyoming and North Dakota as well as the governments of those states for the cost of brucellosis testing.

LEGISLATIVE HISTORY

S. 1767 was introduced by Senators Burns, Baucus, and Symms on October 18, 1989. The Subcommittee held a hearing on S. 1767 on May 10, 1990.

At the business meeting on September 26, 1990, the Senate Committee on Energy and Natural Resources ordered S. 1767, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 26, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass S. 1767 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman [1]	
Mr. Wirth [1]	
Mr. Conrad	
Mr. Heflin [1]	
Mr. Rockefeller	
Mr. Akaka [1]	
Mr. McClure	
Mr. Hatfield [1]	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles [1]	
Mr. Burns	
Mr. Garn [1]	
Mr. McConnell [1]	

[1] Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 1767, the Committee adopted a number of technical amendments in addition to one substantive amendment. The bill, as introduced, provided for compensation only to individual ranchers in Montana and the state of Montana for brucellosis testing. Because brucellosis is also a potential problem in portions of Idaho and Wyoming that surround Yellowstone National Park, and on lands in North Dakota that are in the proximity of Theodore Roosevelt National Park, the Committee adopted an amendment to provide compensation to the individual cattle owners of Idaho, Wyoming and North Dakota, and the governments of those states as well.

SUMMARY OF THE MEASURE

S. 1767 directs the Secretary of the Interior to reimburse the states of Montana, Idaho, Wyoming and North Dakota and the individual ranchers in those states, for the costs of testing cattle for brucellosis if there is a demonstrated risk of such cattle becoming infected with brucellosis due to exposure to infected national park animals. The bill also requires that a claimant prove the validity of such a claim by presenting receipts or explanations of the expenses he or she has incurred to the Secretary. S. 1767 also authorizes

$50,000 annually for fiscal years 1990, 1991 and 1992 to pay for such a program.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1990.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1767, a bill to reimburse cattle owners in Montana, Wyoming, Idaho and North Dakota and the governments of those states for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes. The bill was ordered reported by the Senate Committee on Energy and Natural Resources on September 26, 1990.

S. 1767 would authorize the appropriation of $50,000 for each of the fiscal years 1991 and 1992 for these reimbursements. Assuming that the bill is enacted early in fiscal year 1991 and that the amounts authorized are appropriated, CBO estimates that federal outlays would increase by $50,000 annually over the next two years.

The states of Montana, Wyoming, Idaho and North Dakota would receive a portion of the reimbursements provided by this bill. We have no basis for determining, however, how much of the $100,000 authorized would go to the states rather than to individual cattle owners. Enactment of S. 1767 would not otherwise affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can reached at 226–2860.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1767. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1767, as reported.

EXECUTIVE COMMUNICATIONS

On April 30, 1990, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 1767. On May 9, 1990, the Committee requested reports from the Department of Agriculture. The reports had not been received at the time the report on S. 1767 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF JOHN M. MOREHEAD, ASSOCIATE DIRECTOR, OPERATIONS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, it is a pleasure to appear before this Subcommittee today to present the Administration's position on S. 1767, a bill which, if enacted, would require the Secretary of the Interior to reimburse the State of Montana and/or individual cattle owners for the testing of their cattle for brucellosis if there can be demonstrated a risk that such cattle might become infected due to exposure to Yellowstone National Park elk or bison. There would be authorized to be appropriated $50,000 for the current fiscal year and a similar amount for the next two fiscal years.

Mr. Chairman, while we are not unconcerned about Montana's desire to keep domestic cattle in that State brucellosis-free, we oppose enactment of S. 1767.

It is well documented that some bison and elk in Yellowstone National Park carry the bacterium, *Brucella abortus*, for the disease referred to as brucellosis, also known as undulant fever in humans. What is perhaps not so well known is the range of other wild animals that carry this disease and where it may occur. It would be fallacious to assume that it is confined to Yellowstone National Park or, for the mattter, bison and elk. We are not unconcerned about the interests of our neighbors. In a moment I will address the actions we are taking to demonstrate that concern.

The effects of brucellosis are similar in bison, elk and cattle, the primary one being the abortion of fetuses formed during the cow's first cycle of conception. The prevention of a full-term pregnancy in cattle is economically significant both to dairy farmers, who lose their milk and/or calves, and to ranchers, who lose income because of abortions, must pay for surveillance and vaccination programs, as well as risk losing cattle to disease eradication efforts. There is the further concern that infected animals may communicate brucellosis to humans.

There has long been a concern for the spread of brucellosis into domestic herds adjacent to Yellowstone, but that concern was heightened recently when large numbers of bison left the northern range for private lands within

Montana. As a result, the National Park Service and the State of Montana intensified their efforts in an attempt to prevent the spread of the disease into brucellosis-free herds.

An Ad Hoc Brucellosis Technical Working Committee was established in 1988 to study this issue. The Committee is composed of technical experts from the National Park Service, U.S. Fish and Wildlife Service, the U.S. Animal and Plant Health Inspection Service (APHIS), the State of Wyoming's Game and Fish Department, the State veterinarians of Idaho, Montana and Wyoming, and brucellosis researchers. We have encouraged the Committee to review all existing scientific information about brucellosis and its relationship to domestic cattle and native animals. Further, we have suggested where additional research is needed and encouraged them to identify alternative management strategies for meeting the needs of maintaining bison in a natural condition and preventing the intermingling of wild bison, elk and free-ranging domestic cattle.

On a separate, parallel track the Service is working cooperatively with APHIS to develop technical information and to identify Federal management alternatives. A report from this group is due to be completed later this Spring.

The State of Wyoming has recently established its own task force to study the brucellosis issue. Yellowstone National Park is cooperating with the task force.

Finally, the Montana Department of Fish, Wildlife and Parks, the National Park Service, and the U.S. Forest Service are cooperating in the preparation of a plan for the management of the bison herds of Yellowstone National Park. The general public has been invited to participate in this planning process.

We believe the results of these interagency efforts will support administrative actions that we can take separately and in concert with one another as well as suggest any additional legislative authority we may need to successfully manage this issue. Enacting legislation at this point we believe would be premature.

Mr. Chairman, there is an additional issue here that should be noted, that being the Federal liability for impacts on privately owned livestock beyond the boundaries of Yellowstone National Park. Bison are native animals maintained in a wild and free-roaming condition. When they or other wildlife populations leave the park they become the responsibility of the state, and the National Park Service has neither responsibility nor liability for them. We would suggest that Congress not address this singular case in the Greater Yellowstone area without the realization that it represents merely a fragment of the total subject of wildlife management on Federal lands.

The specifics of S. 1767 concern us in several areas. In the findings section of the bill it is stated that when these animals cross over onto state lands they represent a de facto expansion of Federal holdings. As indicated above,

when the animals cross over onto state lands they become a state responsibility. It is this very premise that underlies the states' authority to regulate the harvest of these animals.

Section 2(a) would have the Secretary of the Interior reimburse the State of Montana and/or individual cattle owners if there is merely a risk of them becoming infected due to national park herds. In the first place, these "national park herds" lose their legal identity the minute they enter non-Federal lands. Secondly the lack of sufficient information on the transmission of brucellosis from one animal to another in truly wild situations does not permit the quantification of risk to domestic cattle. Consequently, it may be impossible to identify when the "demonstrated risk" has occurred. Finally, many of the offending elk spend little or no time within the national park and cannot be considered Yellowstone National Park elk. Identifying which animals are the culprits and where they came from would be difficult at best.

Mr. Chairman, let me reiterate our concern for the financial problems that cattlemen and the State of Montana experience as a result of the potential spread of brucellosis from wildlife within Yellowstone National Park. We are working both diligently and cooperatively with all interested parties, including the states immediately surrounding Yellowstone, to reach an effective solution to this problem. Enacting S. 1767, in our view, would not contribute to that effort.

This concludes my prepared remarks on S. 1767, Mr. Chairman. I would be pleased to respond to your questions at this time.

ADDITIONAL VIEWS OF SENATOR DALE BUMPERS

Although I voted to report out S. 1767, I have significant reservations regarding this measure and the precedent it establishes.

Only one case of brucellosis in livestock has been reported in the Greater Yellowstone Ecosystem. During the Subcommittee hearing on S. 1767, the National Park Service testified that it is unclear whether animals within Yellowstone National Park were the source of that infection. Elk, which can be a carrier of brucellosis, wander widely from federal to non-federal lands, and it is impossible to determine whether brucellosis is coming from federal herds.

Even if we accept the bill's premise that brucellosis is coming from national park herds, I do not believe that the United States should assume financial responsibility for wildlife that leave the National Park System. This is a dangerous precedent, which, if taken further, could lead to federal responsibility for the effects of all wildlife that at any time leave federal lands. In testifying in opposition to this bill, the National Park Service representative recommended that "* * * Congress not address this singular case in the Greater Yellowstone area without the realization that it represents merely a fragment of the total subject of wildlife management on Federal lands."

Furthermore, this bill really does nothing to eradicate brucellosis in cattle, if it in fact exists; it only provides for the federal government to pay for the testing of cattle. More efforts should be made to prevent the spread of the disease by vaccinating cattle and separating livestock from other at-risk animals.

I wrote to the Secretary of the Interior in June of this year asking for more information on the source of the brucellosis infection; what means could be employed to keep wildlife and livestock herds separated; whether vaccination of livestock is a prudent alternative; and most importantly, what responsibility if any, the Park Service has traditionally assumed for wildlife that has left park boundaries.

I have not yet received an answer to this letter. I hope that after I receive responses to the questions I posed, we will be in a better position to respond to the brucellosis problem without having to pass legislation which sets a very dangerous precedent regarding federal responsibility for animals leaving the National Park System.

DALE BUMPERS

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1767, as reported.

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